

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ASSOCIATION FOR COMMUNITY
AFFILIATED PLANS, *et al.*

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
TREASURY, *et al.*,

Defendants.

Civil Action No. 18-2133

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56 and Local Rule 7(h), Plaintiffs Association for Community Affiliated Plans, National Alliance on Mental Illness, Mental Health America, American Psychiatric Association, AIDS United, The National Partnership for Women & Families, and Little Lobbyists, LLC respectfully request that this Court issue an order granting summary judgment to them on all claims in their Complaint regarding the regulation on Short-Term, Limited-Duration Insurance promulgated by the defendant agencies (the “Departments”) on August 3, 2018 (*see* 83 Fed. Reg. 38,212 (Aug. 3, 2018) (the “STLDI Rule”)).

As set forth in greater detail in the accompanying memorandum in support of this motion, plaintiffs are entitled to summary judgment on their claims because the STLDI Rule—in which the Departments determined that a “short-term, limited-duration” health insurance plan (which does not comply with the requirements imposed by Congress in the Affordable Care Act (ACA) on health insurance plans sold in the individual market) may last for up to 365 days and may be

extended up to three years—is “arbitrary, capricious, an abuse discretion, or otherwise not in accordance with law” in violation of the Administrative Procedure Act. *See* 5 U.S.C. § 706(2)(A). The STLDI Rule directly undermines the policies and judgments codified by Congress in the text and structure of the ACA. To achieve this unlawful result, the Departments ignored the plain meaning of the statutory language they purport to interpret. They likewise disregarded without sufficient justification expressly stated congressional goals, the contrary position they took just two years ago on the identical questions, and the myriad informed comments that objected to the change in agency policy.

As further set forth in the accompanying memorandum, the STLDI Rule has caused (and will continue to cause, absent relief from this Court) irreparable harm to plaintiffs—who are health care insurers who sell ACA-compliant insurance, health care providers who provide health care services and rely on patients’ insurance benefits, and consumers who purchase insurance and use health care services. It will also injure the health care system as a whole and leave many individuals with inadequate or no health insurance.

To prevent the continuation of the serious and irreparable harms that have been caused by the unlawful STLDI, plaintiffs respectfully request that the Court grant their motion, suspend the effectiveness of the STLDI Rule, and grant such other relief as is appropriate. Plaintiffs’ counsel conferred with opposing counsel about this Motion. Defendants’ counsel opposes the Motion.

Dated: February 22, 2019

Respectfully submitted,

/s/ Andrew J. Pincus

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